

S/N : 10/735.117  
Inventor : Zhang Fan  
Reply to the Office action dated March 21, 2005

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### Remarks/Arguments

Examiner Lee is thanked for the thorough Office Action.

#### In the Claims

Claim 4 is canceled. Claim 4 is canceled to reduce PTO costs and does not limit the claims in any way.

Claim 8 is amended. Claim 8 is amended to refer to the buffer pad.

Parent Method claim 16 is canceled. Claim 16 is canceled to reduce PTO costs and does not limit the claims in any way.

New Parent Method claim 28 is added. For support see original claim 1, steps e and f. Also, compared to claim 1, claim 28 does not include the barrier layer.

The amendments above are not made in response to prior art and do not reduce the claim scopes in anyway. This overcomes any presumptions in FESTO.

No new matter is added.

### **ELECTION/RESTRICTIONS**

The instant office action states:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 17 thru 27, drawn to a semiconductor device, classified in class 257, subclass 784.

II. Claims 1 thru 16, drawn to method of making a semiconductor device, classified in class 438, subclass 1+.

the inventions are distinct, each from the other because of the following reasons:

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The office action posits that the inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as the product made and the process of making. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPFP § 806\_05(f)) In the instant case the product as claimed can be made by another and materially different process. For example, as an alternative to the methods set forth in claims 1- 16, instead of planarizing said conductive buffer layer to form a buffer pad, one can form the buffer pad by forming the conductive buffer layer without planarizing.

The instant office action in paragraph 3 further posits:

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

#### **Provisional Election with TRAVERSE**

**Applicant provisionally elects to be examined the invention described by the Examiner as Group II. - Claims 1 thru 15 (and 28). THIS ELECTION IS MADE WITH TRAVERSE.** This election is made with traverse at least of the requirement under 37 C.F.R.1.143 for the reasons given in the following paragraphs.

#### **Respectfully Request To Reconsider The Requirement For Restriction**

The Examiner is respectfully requested to reconsider the Requirement for Restriction given in the Office Action. The Examiner gives the reason for the distinctness of the two inventions as (2) that the product as claimed can be made by another and materially different process (MPI:P 806.05(l)). The office action posits that claim 1, (steps e and f) can be perform in a materially different manner.

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For example, as an alternative to the methods set forth in claims 1- 16, instead of planarizing said conductive buffer layer to form a buffer pad, one can form the buffer pad by forming the conductive buffer layer without planarizing.

However, this is not a materially different process. Furthermore, New parent method claim 28, claims "forming a buffer pad in said buffer opening;" thereby eliminating the example given in the office action.

To perform an adequate search, the field of search must necessarily cover both the method class/subclass 438/11 and products class 257/784 in addition to other related Classes and subclasses to provide a complete and adequate search. Therefore, the fields of search for the Group I and Group II inventions are clearly and necessarily co-extensive.

Further, it is respectfully suggested that these reasons are insufficient to place the additional cost of a second Patent Application upon the Applicants. Therefore, it is respectfully requested that the Examiner withdraw this restriction requirement for these reasons.

## CONCLUSION

In conclusion, reconsideration and withdrawal of the rejections are respectfully requested. Allowance of all claims is requested. Issuance of the application is requested.

It is requested that the Examiner telephone the undersigned attorney at (215) 670-2455 should there be anyway that we could help to place this Application in condition for Allowance.

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Charge to Deposit Account

The Commissioner is hereby authorized to apply any fees or credits in this case, which are not already covered by check or credit card, to Deposit Account No. 502018 referencing this attorney docket. The Commissioner is also authorized to charge any additional fee under 37 CFR §1.16 and 1.17 to this Deposit Account.

Respectfully submitted,

Date: 3/28/05

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Computer file info: cs02-101-rev1-dated-2005-03-21.doc file size: 71680